

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2525

IN THE MATTERS OF:

Served February 6, 1984

Application of PHOENIX TOURS, INC.,)  
for Temporary Authority to Conduct )  
Charter Operations -- Sightseeing )  
and Related Transfer Operations )  
between Hotels and Airports )

Case No. AP-83-58

By application filed December 8, 1983, Phoenix Tours, Inc., seeks temporary authority to transport passengers and their baggage in charter sightseeing operations, in 21-passenger vehicles, between points in the Metropolitan District, including related transfer service for tour groups between airports and hotels. Applicant proposes to serve educationally oriented groups by providing tours focusing on Washington, D. C.'s unique educational, cross-cultural, recreational, political, social and cultural opportunities.

Applicant claims extraordinary expertise in providing educational tours based upon extensive work with foreign visitor associations, educational groups, and local tourism interests. Applicant avers that its principals are licensed tour guides with the ability to conduct tours in several languages (Korean, Spanish, French, German and Swedish) and to provide its customers with orientation and cross-cultural counseling. Slide presentations and packets of information for specific tour groups are part of applicant's proffered sophisticated service.

Phoenix is a relatively new company, incorporated on June 9, 1983. Applicant admits uncertificated operations prior to becoming aware of Commission requirements, but it has ceased such operations pending determination of this application.

Phoenix has operated one 21-passenger minibus. It avers that it will acquire more equipment as needed, and plans to obtain one additional unit within the first year after the granting of this application.

Applicant's rate for service will be \$35 per hour, with a four-hour minimum. No evidence of insurance has been adduced.

The application contains unverified statements from Judy Myers, Roseborough Travel, Deland, Fla.; Donna Binet, Vision Tours, Coral Gables, Fla.; Dana G. Clark, The Georgetown (luxury retirement residence), Washington, D. C.; Margot E. Center, Bald Eagle Tours, Inc., New York City; Norma R. Raglin, T.C.I. International Travel, New York City; Stanley Morms, Automobile Club of Maryland; Carolyn A. Brooks, Accent on Limousines, Washington, D. C.; Robinette C. Livingston, Greater Southeast Community Multi-Service Senior Center, Washington, D. C.; and John C. Canney, Imperial 400 Motels. The testimony generally asserts an immediate and urgent need for the proposed service, which features specialized educational tours for groups, such as schools and senior citizens, complete with slide shows and multi-lingual tour guides. Apparently the witnesses used applicant's service prior to its discontinuance. None of these supporting statements contain any specific criticisms of other carriers offering charter sightseeing services. In fact, their statements do not indicate that the services of existing carriers have ever been tried.

Airport Limo, Inc., filed a letter protesting this application and stating that it is already authorized by the Commission to perform the service requested (except lectured sightseeing service). Protestant avers that its regularly-scheduled and charter services are capable of meeting the transfer needs of the public, and that Phoenix Tours' service is unnecessary. Airport also opposes awarding to a new carrier airport transfer authority when the FAA is imminently planning to implement an overall airport ground transportation plan.

Phoenix filed a reply to the protest in which it reasserts that applicant provides a unique, sophisticated, educational tour service, conducted by multi-lingual guides. It states that protestant provides almost exclusively airport transfers and cannot supply applicant's type of service. Applicant also argues that the authority it seeks will merely allow it to continue providing service it has provided in the past and on which the public has come to rely.

After noon on January 6, 1984, Phoenix filed an affidavit by its vice president stating that, in anticipation of a grant of this application, it had already agreed to provide service for the American Library Association from January 7, to January 13, 1984. The Executive Director of the Commission brought this matter to the attention of the two Commissioners who were available to consider it that same afternoon, Chairman Worthy and Judge Shannon, both of whom had already reviewed the record to date in this case. Upon consideration of the affidavit, both Commissioners decided that the presentation with regard to this specific service, like the overall case at that point in time, failed to show deficiencies in existing services. The Commissions' decision to deny this specific aspect of this application was communicated to counsel for applicant by telephone that same afternoon.

Finally, on January 23, 1984, Phoenix filed supplemental statements from two travel agencies, Vision Tours and Travel Advisors, Inc. Phoenix also submitted additional legal argument.

Vision Tours states that in August 1983 it began efforts to find a ground operator willing to tailor tour and sightseeing programs to the requirements of the particular tour group involved. The needs of Vision Tours were communicated to 11 local carriers or brokers, but none were willing to provide constructed tours. Specifically addressing protestant Airport Limo, Vision Tours states that bare airport transfers, without meeting passengers at the gate, luggage assistance and other related services is inadequate.

Phoenix, on the other hand, is willing to provide constructed tours and offer the accessorial services required by Vision Tours. One trip is already scheduled for early March 1984 for Florida-based travel agents who will be familiarizing themselves with Washington, D. C. as part of an effort to promote tourism for the Metropolitan District. It is stated that the 21-passenger vehicle and sophisticated personnel of Phoenix are particularly appropriate for service to this group.

Travel Advisors, Inc., also has clients which require specialized sightseeing beyond the so-called "standard city tours." Applicant's ability to customize tours for "medium-sized groups" is ideal for this witness. Travel Advisors contacted two certificated carriers about providing service, but found their service proposals inadequate. Travel Advisors proposes to use Phoenix Tours approximately three times a month.

Title II, Article XII, Section 4(d)(3) of the Compact requires that we find, as a condition precedent to granting temporary authority, that there exists an immediate and urgent need for the proposed service which no other certificated carrier can meet.

Here, the public witnesses have stated, albeit in somewhat vague terms, a need for tours specially constructed to meet the needs of individual sightseeing groups. Also required are airport transfers for such groups which include accessorial "meet and greet" services. The only protestant herein does not offer the full range of services required, and no other carrier has evidenced a desire to provide the customized tours required. Accordingly, we find that the statutory criteria have been met and that the application should be granted. Such a grant, however, raises no presumption with respect to any application for corresponding permanent authority.

THEREFORE, IT IS ORDERED:

1. That Phoenix Tours, Inc., is hereby granted temporary authority to transport passengers and their baggage, in vehicles with a manufacturer's designed seating capacity of 21 or less (including the driver), (a) in charter operations restricted to round-trip sightseeing

tours, between points in the Metropolitan District, and (b) in charter operations restricted to one-way transfers of groups transported or to be transported by Phoenix Tours, Inc., in round-trip sightseeing service, between Washington National Airport, Gravelly Point, Va., and Dulles International Airport, Herndon, Va., on the one hand, and, on the other, points in the Metropolitan District.

2. That said temporary authority shall be effective on February 13, 1984, provided, however, that Phoenix Tours, Inc., has fully complied with the requirements set forth in the second succeeding paragraph hereof, and shall remain in effect until August 10, 1984, at 11:59 p.m.

3. That the temporary authority granted herein does not authorize transportation between any points located solely in the Commonwealth of Virginia.

4. That Phoenix Tours, Inc., file with the Commission no later than February 10, 1984, (a) two copies of an affidavit certifying compliance with Commission Regulation No. 68-03 governing identification of vehicles and (b) a certificate of insurance in compliance with Commission Regulation No. 62.

5. That unless Phoenix Tours, Inc., complies with the requirements of the preceding paragraph within the time established therefor or such additional time as may hereafter be authorized, the grant of temporary authority made herein is void and this application shall stand denied in its entirety.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER AND SHANNON:

  
WILLIAM H. MCGILVERY  
Executive Director